



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2005 REGULAR SESSION

HOUSE BILL NO. 400

THURSDAY, FEBRUARY 24, 2005

The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY Gandhi Adhiron

AN ACT relating to county occupational license fees and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 Section 1. KRS 68.197 is amended to read as follows:

2 (1) The fiscal court of each county having a population of thirty thousand (30,000) or
3 more may by ordinance impose license fees on franchises, provide for licensing any
4 business, trade, occupation, or profession, and the using, holding, or exhibiting of
5 any animal, article, or other thing.

6 (2) License fees on such business, trade, occupation, or profession for revenue
7 purposes, except those of the common schools, may be imposed at a percentage rate
8 not to exceed one percent (1%) of:

9 (a) Salaries, wages, commissions, and other compensation earned by persons
10 within the county for work done and services performed or rendered in the
11 county;

12 (b) The net profits of self-employed individuals, partnerships, professional
13 associations, or joint ventures resulting from trades, professions, occupations,
14 businesses, or activities conducted in the county; and

15 (c) The net profits of corporations resulting from trades, professions, occupations,
16 businesses, or activities conducted in the county.

17 (3) In order to reduce administrative costs and minimize paperwork for employers,
18 employees, and businesses, the fiscal court may provide:

19 (a) For an annual fixed amount license fee which a person may elect to pay in lieu
20 of reporting and paying the percentage rate as provided in this subsection on
21 salaries, wages, commissions, and other compensation earned within the
22 county for work done and services performed or rendered in the county; and

23 (b) For an annual fixed amount license fee which an individual, partnership,
24 professional association, joint venture, or corporation may elect to pay in lieu
25 of reporting and paying the percentage rate as provided in this subsection on

1 net profits of businesses, trades, professions, or occupations from activities
2 conducted in the county.

3 (4) Licenses imposed for regulatory purposes are not subject to such limitations as to
4 form and amount. No public service company that pays an ad valorem tax is
5 required to pay a license tax, and no license tax shall be imposed upon or collected
6 from any insurance company except as provided in KRS 91A.080, bank, trust
7 company, combined bank and trust company, combined trust, banking, and title
8 business in this state, or any savings and loan association whether state or federally
9 chartered, or in other cases where the county is prohibited by law from imposing a
10 license fee.

11 (5) No license fee shall be imposed or collected on income received by members of the
12 Kentucky National Guard for active duty training, unit training assemblies, and
13 annual field training, or on income received by precinct workers for election
14 training or work at election booths in state, county, and local primary, regular, or
15 special elections, or upon any profits, earnings, or distributions of an investment
16 fund which would qualify under KRS 154.20-250 to 154.20-284 to the extent any
17 profits, earnings, or distributions would not be taxable to an individual investor.

18 (6) Persons who pay a county license fee pursuant to this section and who also pay a
19 license fee to a city contained in the county may, upon agreement between the
20 county and the city, credit their city license fee against their county license fee.

21 (7) The provisions of subsection (6) of this section notwithstanding, effective with
22 license fees imposed under the provisions of subsection (1) of this section on or
23 after July 15, 1986, persons who pay a county license fee and a license fee to a city
24 contained in the county shall be allowed to credit their city license fee against their
25 county license fee.

26 (8) On July 14, 2000, the provisions of subsection (7) of this section notwithstanding,
27 city license fees not credited against county license fees enacted under this section

or KRS 67.083 as of January 1, 2000, shall not be credited against county license fees. However, this exception shall not apply to county license fees enacted for the first time, or increased, on or after January 1, 2000. This provision shall expire July 15, 2002, unless otherwise extended by the General Assembly.

- (9) A county that enacted an occupational license fee under the authority of KRS 67.083 shall not be required to reduce its occupational tax rate when it is determined that the population of the county exceeds thirty thousand (30,000).

(10) Notwithstanding any statute to the contrary:

(a) In those counties where a license fee has been authorized by a public question approved by the voters, there shall be no credit of a city license fee against a county license fee except by agreement between the county and the city in accordance with subsection (6) of this section;

(b) Notwithstanding any provision of the KRS to the contrary, no taxpayer shall be refunded or credited for any overpayment of a license tax paid to any county to the extent the overpayment is attributable to or derives from KRS 68.197 as it existed at any time subsequent to July 15, 1986, and the taxpayer seeks a credit for a license tax paid to a city located within such county, if such refund claim or amended tax return claim was filed or perfected after November 18, 2004, except by agreement between the city and county in accordance with subsection (6) of this section;

(c) In those counties where a license fee has been authorized by a public question approved by the voters, the percentage rate of the license fee in effect on January 1, 2005, and any maximum salary limit upon which the license fee is calculated shall remained unchanged for subsequent fiscal years. A percentage rate higher than the percentage rate in effect on January 1, 2005, or any change in the maximum salary limit upon which a license fee is calculated shall be prohibited unless approved by the voters at

1 a public referendum. The percentage rate of a license fee in such counties
2 shall at no time exceed one percent (1%). Any question to be placed before
3 the voters as a result of this paragraph shall be placed on the ballot at a
4 regular election or nominating primary.

5 (d) This subsection shall have retroactive application; and

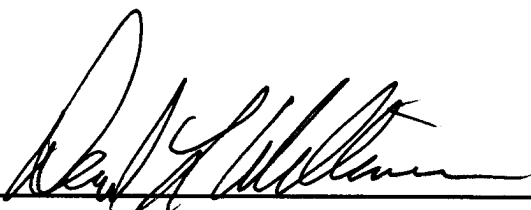
6 (e) If any provision of this subsection or the application thereof to any person
7 or circumstance is held invalid, the invalidity shall not affect other
8 provisions or application of this section that can be given effect without the
9 invalid provision or application, and to this end the provisions of this
10 subsection are severable.

11 Section 2. It is necessary to clarify the General Assembly's original intention that it
12 is not the intent of the General Assembly to bring financial hardship upon a county from
13 the crediting or refunding of fees when the county has acted in good faith to provide for
14 the needs of its community by the imposition of a license fee authorized by this section.

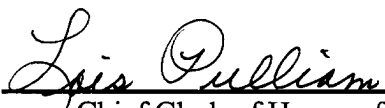
15 Section 3. Whereas, recent judicial interpretations of KRS 68.197 could result in
16 catastrophic financial hardship for some Kentucky counties, an emergency is declared to
17 exist, and this Act takes effect upon its passage and approval by the Governor or upon its
18 otherwise becoming a law.



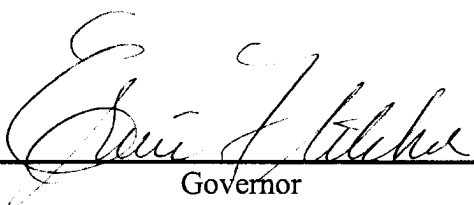
Speaker-House of Representatives



President of the Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 
